United States Congress
Committee on Ways and Means
Ways and Means Committee Office Building
1102 Longworth House Office Building
Washington, D.C. 20515

VIA EMAIL: tax.reform@mail.house.gov.

Re: Comments: (1) Energy Tax Reform Working Group and
(2) Income and Tax Distribution Working Group

Dear Sir/Madam:

Introduction. Thank you for the opportunity to share information, facts, and data that is relevant to the Committee's review of current federal income tax law. We wish to comment on Section 132(f) of the Internal Revenue Code (the "Code") relating to the exclusion of gross income of qualified transportation fringe benefits – commonly referred to as commuter benefits, which has saved money for employees and employers for over 25 years.

WageWorks, Inc. ("WageWorks") administers qualified transportation fringe benefits (commuter benefits). Our commuter programs include transit products from over 650 transit operators covering every major metropolitan area. We fulfill over 10 million commuter orders, including passes, smartcards, parking payments, vanpool vouchers and commuter cards, to commuters and their employers on an annual basis. We sell our commuter program to employers of all sizes and industries. This breadth of experience gives us unique experience to comment on the current federal income tax law as it relates to these benefits. We believe over 2.7 million people take advantage of commuter benefits nationally through our program and others.

The Benefit. In general, Section 132(f) of the Code provides, subject to certain limitations, that the cost of the following may be excluded from gross income under Section 132(a)(5) of the Code:

(a) transportation in a commuter highway vehicle,
(b) any transit pass,
(c) qualified parking, and
(d) qualified bicycle commuting reimbursement.

We will focus our comments on the law as it relates to transit passes and qualified parking.

Section 132(f) of the Code provides for a limitation of exclusion, subject to an annual inflation adjustment. For the 2013 tax year the limitation of exclusion is $245 per month for transit passes and $245 per month for qualified parking (parity). Since 2008, the monthly limitations were as follows.

(a) 2008 – Monthly transit limitation was $115; monthly parking limitation was $220 (no parity).
(b) 2009 – As part of the American Recovery and Reinvestment Act of 2009, parity was established between transit and parking starting in March; both had a monthly limitation of $230 ($10 inflation adjustment). There was a 2-year sunset provision.
(c) 2010 – Remained at $230.
(d) 2011 – Sunset provision was set to kick in, but parity between transit and parking was extended for one additional year and remained at $230.
(e) 2012 – Initially, no additional extension of parity and transit went back to $125 (includes inflation adjustment); parking had a monthly limitation of $240 (another $10 inflation adjustment).
(f) 2013 – Through the American Taxpayer relief Act of 2012, parity was restored retroactively to January 2012 through the end of 2013. For 2012 there was a retroactive adjustment to $240 for transit; parking was already at $240. For 2013, including inflation adjustment, the monthly limitation is $245 for both transit and parking.

(g) 2014 – Without Congressional action there will be a loss of parity and the transit benefit will be reduced to $125 plus any inflation adjustment.

Recommendation. WageWorks recommends Congressional action to establish parity between the transit and parking benefits on a permanent basis, particularly to help keep the cost of commuting down for middle class people.

Basis for Recommendation. People that commute to work by public transportation whose employers offer a commuter benefit will be negatively impacted if parity is not made permanent. With transit fares rising every year, the additional savings afforded by parity is significant for both employees and employers. These additional savings are most important to middle class families who struggle to make ends meet, and to small employers who struggle to grow their businesses and create jobs. Both of these groups are the driving force behind economic growth. A typical commuter in Long Island, New York commuting to Manhattan pays from $242 to $466 for a monthly train ticket. In counties surrounding Chicago, Illinois, riders are paying up to $263.50 for a monthly pass on METRA. In the Bronx, Queens, Staten Island and Brooklyn where many middle and lower income employees commute to Manhattan by MTA Express Bus service, a weekly pass is $55 – $220 per month. Other high-cost regions across the country have similar fares. In these high cost regions, lower and middle income families are struggling, and the cost of public transportation is rising.

If Congress fails to act to maintain parity between the transit and parking benefit, and the transit benefit is reduced from the current $245 per month back to $125, there will be a significant increase in commuting costs for employees and payroll taxes for employers.

A. **Impact on Employees** – If parity is not maintained, employees whose monthly commute is $245 or more would pay taxes on an additional $120 per month of income or $1,440 per year ($2,880 for a couple). This will be a particular hardship on lower and middle incomes individuals and families. Depending on their marginal tax rate (federal, state and local), these employees can end up paying over $500 a year more in taxes or over $1,000 per year for a couple. This is effectively an increase in the cost of commuting.

B. **Impact on Employers** – Employers save 7.65% on every dollar deducted by the employee (up to the Social Security Wage base of $113,700) to fund a commuter benefit. If parity is not maintained, employers will pay an additional $110 in payroll taxes per employee who takes full advantage of the commuter benefit. If a small business employs 25 people that take advantage of the commuter benefit at $245 per month, that small employer will pay over $2,750 more per year in payroll taxes if parity is not maintained. A larger company with 1,000 employees will pay $110,000 more. In addition, the uncertain nature of parity, and the “ping-pong” effect of the transit cap going up and down, has caused confusion for employers. This has significantly increased the burden and cost of administering the programs due to adjustments required by the IRS. This year, due to the retroactive nature of extending parity for one additional year, employers were required to file corrected Forms 941 and corrected Forms W-2. Due to the uncertainty and added cost, many employers have abandoned offering the benefit all together.

C. **Impact on Transit Operators and Government** – Studies show that as fares increase, ridership decreases. Without parity, ridership and revenue collected by transit operators will decrease, creating a greater burden on government, which often times subsidizes public transportation.

Conclusion. As part of any tax reform, Congress should act to permanently establish parity between the transit and parking commuter benefit. Failure to act will cause significant increases in the cost of commuting for all participants in a commuter benefits program, particularly many lower and middle income families. In addition, there will be significant increases in payroll taxes for all businesses offering the commuter benefits program, including small businesses, which are the driving force to economic recovery.

Respectfully submitted,

WageWorks, Inc.